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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,073	06/21/2001	Bobby R. Brady	RD8005 US NA	5946

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EXAMINER

LEYSON, JOSEPH S

ART UNIT PAPER NUMBER

1722

DATE MAILED: 03/14/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/886,073

Applicant(s)

BRADY ET AL.

Examiner

Joseph Leyson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 4-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-4, drawn to an apparatus, classified in class 425, subclass 72.2.

II. Claims 5 and 6, drawn to a method, classified in class 264, subclass 39.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice another and materially different process such as a process for forming filaments not including a wiping step, or the process as claimed can be practiced by another materially different apparatus, such as an apparatus which does not include spinneret pack body or a spinneret plate.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by

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their different classification, restriction for examination purposes as indicated is proper.

4. If applicant elects the apparatus of Group I, a further species restriction is required because this application contains claims directed to the following patentably distinct species of the claimed invention:

Species A, drawn to figs. 2-2B and to claim 3; and

Species B, drawn to figs. 3-3A and to claim 4.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 2 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37

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CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. During a telephone conversation with Jane O. Hamby on 7 March 2003 a provisional election was made with traverse to prosecute the invention of Group I, Species A, claims 1-3. Affirmation of this election must be made by applicant in replying to this Office action. Claims 4-6 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must

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be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Beeck et al.(-566).

Beeck et al.(-566) teach a steam blanketing apparatus, that corresponds to the instant apparatus, for blanketing the face of a spinneret with gas which includes a spinneret pack body 6 including a spinneret plate 10 having a lower face with an orifice array through which filaments are extruded, a spin head 1 surrounding the spinneret pack body 6, and a steam distribution ring having a groove 8 and an inner edge 9, the ring surrounding the array, wherein the steam distribution ring abuts the spin head 1, wherein the spin head 1 includes a plate

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(see structure with "x" cross hatching in figs. 1 and 2) extending below the spinneret plate 10, and the steam distribution ring is located in a counterbore formed in the spin head plate (see figs. 1 and 2).

9. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferrier et al.(-330).

Ferrier et al.(-330) teach a steam blanketing apparatus, that corresponds to the instant apparatus, for blanketing the face of a spinneret with gas which includes a spinneret pack body 18 including a spinneret plate 20 having a lower face with an orifice array 44 through which filaments 22 are extruded, a spin head 10 surrounding the spinneret pack body 18, and a steam distribution ring 50, 56 surrounding the array 44, wherein the steam distribution ring 50, 56 abuts the spin head 10 and is removably mounted to the spin head 10 by a threaded screw connection (see fig. 2; col. 5, lines 40-47).

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beeck et al.(-566).

Beeck et al.(-566) disclose the apparatus substantially as claimed as mentioned above except for the steam distribution ring being removably mounted to the spin head.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the apparatus of Beeck et al.(-566) such that the ring is removably mounted to the spin head because the fact that a structure is integral does not preclude its consisting of various elements, Nerwin v.

Erlichman, 168 USPQ 177; Howard v. Detroit Stove Works, 150 U.S.

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13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bradshaw(-689), Ferrier et al.(-272), Parr et al.(-529), Rapisarda(-800), Shaffer(-957) and Foley(-475) are cited as of interest.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Leyson whose telephone number is (703) 308-2647. The examiner can normally be reached on M-F(8:30-6:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

jl

jl
March 8, 2003

James Mackey
JAMES P. MACKEY
PRIMARY EXAMINER

3/10/03